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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0311**

In the Matter of the Welfare of the Child of:
B. D. M. and A. T. C. W. (deceased),
AKA A. T. W., AKA A. C. W., Parents.

**Filed August 28, 2023
Affirmed in part and remanded
Segal, Chief Judge**

Olmsted County District Court
File No. 55-JV-22-6169

James McGeeney, Doda McGeeney, Rochester, Minnesota (for appellant-mother B.D.M.)

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Rochester, Minnesota (for respondent Olmsted County Health, Housing, and Human
Services)

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Rochester, Minnesota (for child K.R.W.W.)

Vicki Duncan, Rochester, Minnesota (guardian ad litem)

Considered and decided by Larkin, Presiding Judge; Segal, Chief Judge; and Florey,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SEGAL, Chief Judge

Appellant-mother B.D.M. challenges the district court's termination of her parental rights to her child, arguing that respondent Olmsted County Health, Housing, and Human Services (the county) failed to prove (1) a statutory basis for termination and (2) that termination was in the child's best interests. We conclude that the district court did not abuse its discretion in determining that the county proved a statutory ground for termination of parental rights by clear and convincing evidence and thus affirm on that issue. But we remand the issue of whether termination of parental rights was in the child's best interests because the district court failed to make adequate findings on that required element.

FACTS

Mother is the parent of K.W., born in 2009. K.W.'s father died in 2018. The county became involved with the family in May 2021, when it received a report concerning mother's mental health and interactions with K.W. over the past several years. The reporter alleged that mother developed symptoms of mental illness, including psychosis, in approximately 2017. The reporter said that K.W. had lived with only father for a time due to mother's mental illness and that, while K.W. was living with father, K.W. was reported missing because mother took K.W. on a month-long road trip without telling father. K.W. eventually ended up back in father's care, but she returned to live with mother after father died in 2018.

The reporter also alleged several incidents of physical abuse by mother against K.W. The reporter stated that three weeks earlier, K.W. and mother were in Florida and K.W. called the reporter. K.W. said on the phone that mother had attacked K.W. by dragging her out of bed, pulling her into the bathroom, and putting her in a chokehold. K.W. told the reporter that she bit mother's arm so that mother would let her go. The reporter said that K.W. was terrified of mother. The county accepted the report for a facility investigation because mother was a licensed foster-care provider for the county.

The county investigator interviewed K.W., K.W.'s maternal grandmother, and mother. K.W. confirmed the incidents described by the reporter, including the event in Florida when mother dragged her out of bed and held her in a chokehold across the face and chest. K.W. also described mother's mental-health struggles, stating that mother believes she can communicate with aliens via a telephone in her head, that mother told K.W. in the past that she was pregnant with an alien, and that mother often talks to herself and displays different personalities. K.W. told the investigator that one of mother's other personalities is "a child-like personality where her mom will dress like a child (such as putting on a dress, pants, and cowboy boots), and then will want to go out." K.W. explained that "she will have to keep her mom from touching everything in a store, or getting close to others, especially during COVID, and will have to explain to her mom that groceries can't just be things like brownie mix."

Grandmother shared during the investigation that mother had previously been hospitalized for her mental health and that the severity of mother's symptoms is variable. Grandmother said that she supplies extra groceries for K.W. because mother does not

always make sure that K.W. has enough food. She also expressed concern that mother has on several occasions taken off with K.W. suddenly, at times based on mother's psychosis-related narratives. Grandmother said that in one of these instances, mother "took [K.W.] in the middle of the night to the Air Force base and attempted to break in as she thought she would find the CIA's secrets."

Mother acknowledged the Florida incident to the investigator, stating that she put K.W. in a hold because K.W. was being disrespectful to mother and mother felt that she needed to address such behavior before K.W. got bigger and older. The investigator noted that, while mother "struggled to openly endorse her mental health symptoms," she "did disclose experiencing auditory hallucinations daily and that it feels that she has a TV going on in her head 24/7." Further, mother "was not able to articulate how to best help her mental health aside from trying to ignore it." In terms of mother's physical interactions with K.W., the investigator wrote that mother "worries about [K.W.] being defiant and worries that it will manifest [in K.W.] being physical towards her as she grows and gets bigger, although [K.W.] has not been known to have physically aggressive behaviors towards [mother] or others."

The investigator determined that maltreatment had occurred and that the family needed child-protection services. The case was then transferred to another county worker for ongoing case-management services. K.W. continued to live with mother, with a safety plan in place developed by the county. The plan prohibited mother from using physical discipline with K.W. and provided that, when K.W. did not feel safe with mother, she was to go to grandmother's home one block away.

In November 2021, K.W. told grandmother that mother had become upset and hit her on the ear. Grandmother reported the incident to the county, and the county implemented a 24/7 supervision plan under which K.W. lived full-time with grandmother and visits between K.W. and mother were supervised. In February 2022, the county petitioned for K.W. to be adjudicated a child in need of protection or services (CHIPS). The district court did not rule on the CHIPS petition but ordered K.W. into the protective care of the county at an admit/deny hearing in March 2022. K.W. continued to live with grandmother as a foster-care placement.

After K.W. was officially placed into foster care with grandmother, the county developed an out-of-home-placement plan describing the family's needs and goals for mother. Mother's goals included demonstrating stable mental health; establishing "a safe and healthy support network which includes individuals who are aware of her mental health struggles and can step in to help she and [K.W.] when necessary"; being able to provide for K.W.'s needs on a daily basis and being a safe caregiver for K.W.; having "consistent, safe, and interactive visits with [K.W.]" and working with the county to reunify with K.W. Mother refused to sign the plan. The district court approved the plan in August 2022.

The county petitioned for termination of parental rights (TPR) in September 2022, asserting three statutory bases—that mother neglected to comply with parental duties, reasonable efforts failed to correct conditions leading to the out-of-home placement, and K.W. was neglected and in foster care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (5), (8) (2022). The petition alleged that mother's mental-health symptoms had worsened during the county's involvement and that mother continued to lack insight into her need for

mental-health treatment and the effect of her mental illness on K.W. It further stated that mother “refuses to consider that she ever put [K.W.] in danger or that [K.W.] is fearful of her” and that, while the county has “made reasonable efforts to work with [mother] to . . . return[] [K.W.] to her care, [mother] has not demonstrated the consistency and stability needed to provide long-term care for her daughter, as [mother’s] unmanaged mental health disrupts her ability to provide [K.W.] with the stability and care that she needs.”

The district court held the TPR trial in December 2022. The court heard testimony from K.W., the social worker who conducted the investigation in the case, the family’s ongoing county social worker, K.W.’s individual therapist, and the guardian ad litem (GAL).

K.W. was 13 years old at the time of trial. K.W. testified that mother has struggled with her mental health “for a while, and it has been slowly getting more serious.” K.W. stated that it is hard to predict mother’s behavior and that she feels unsafe with mother because mother can suddenly switch “to a completely different person, and it is really hard to know what triggers her, and so you never know when it is actually going to happen.” She further explained that mother “can go into, like, depressive episodes or not know . . . who people are . . . or be talking to herself or just kicking walls, kicking cabinets, [and] punching holes in walls.” K.W. testified that her mother’s physical discipline became more severe as K.W. got older. She described the incident in Florida in which mother dragged her out of bed and put her in a hold, as well as several incidents where mother stood over K.W. and yelled while K.W. was sleeping or otherwise prevented K.W. from being able to

sleep. She said that she lived with father for a period because mother was struggling with mental illness.

K.W. also discussed her relationship with mother since the county became involved with the family. She described an instance in which mother attended one of K.W.'s therapy appointments and mother yelled at K.W.'s therapist and the therapist asked mother to leave. K.W. testified that she has chosen not to have contact with mother recently because mother brings up topics that K.W. does not want to think about and mother blames other people for the issues the family is experiencing. K.W. stated that she wants to continue to live with grandmother; she does not currently want a relationship with mother but might consider having one in the future if mother gets help for her mental illness.

The ongoing social worker, who began working with the family in June 2021, testified that, while mother's mental-health symptoms were immediately evident, those symptoms seemed to worsen over the time she worked with the family. For example, the social worker said that when she met mother, mother appeared to demonstrate symptoms of psychosis, but mother acknowledged to the worker at that time that "she was hoping that she could get the help that she needed so that [K.W.] would feel safe with her and that [K.W.] wouldn't grow up feeling that she had a crazy mom." However, the social worker observed mother becoming increasingly paranoid of grandmother, the county, and K.W.

These symptoms especially worsened shortly before the county enacted the 24/7 supervision plan and K.W. moved to grandmother's house in November 2021. The ongoing social worker testified that mother "quickly started making accusations that [the worker] had kidnapped [K.W.] and that [grandmother] had kidnapped [K.W.] and that she

was being brainwashed.” Mother reported the social worker to the Minnesota Board of Social Work and made these allegations to law enforcement.

Because the kidnapping and brainwashing allegations upset K.W., the ongoing social worker conditioned mother’s visitation on not discussing the topic during visits with K.W. While mother refrained from bringing up brainwashing and kidnapping during the visits, “it was [K.W.] who was really struggling.” The social worker said this was because “[K.W.] wanted to have visits with her mom where she could talk about what had happened” and “it was really hard for [K.W.] to go to a visit and see [mother] and not be able to really just tell her how she was feeling.” The county thus suspended visits between K.W. and mother.

The ongoing social worker also testified about mother’s engagement with mental-health services over the course of the case. The social worker said that mother started attending group therapy at Riverstone Psychological Services early in the county’s involvement. Riverstone recommended to mother that she receive more intensive services, and mother “followed through and eventually started services through the Zumbro Valley Health Center where she was seeing a therapist and working with an [Adult Rehabilitative Mental Health Services] worker.” The therapist at Zumbro diagnosed mother with post-traumatic stress disorder (PTSD).

Following the suspension of visitation, the ongoing social worker, the Zumbro therapist, and K.W.’s therapist began arranging a family therapy session with K.W., mother, and both therapists in the hope of reestablishing contact between K.W. and mother. But just before the therapy session was set to occur in the spring of 2022, “[mother]

abruptly stopped seeing [the Zumbro therapist] and has not had [further] contact with her.” Mother was extremely angry when the family therapy did not occur and screamed at the social worker at subsequent meetings.

The ongoing social worker testified that mother had seen a psychiatrist who told the social worker that he thought mother “had a more significant psychiatric diagnosis [than PTSD] and felt that she perhaps should try . . . an antipsychotic medication.” The social worker further testified that she was told by the psychiatrist that he recommended the medication and additional testing to mother, “and when he did so she then became very upset and stopped treatment with him.”

After ceasing treatment with the Zumbro therapist and the psychiatrist, mother eventually began to see another therapist in August 2022. The ongoing social worker testified that she asked mother to sign a release in August to authorize the social worker to communicate with the new therapist, but mother did not sign the release until several weeks before the December trial. The social worker was unable to obtain much information from the new therapist prior to trial but confirmed that mother had seen the therapist once or twice per month.

When asked what the largest barrier to reunification was for mother, the ongoing social worker replied, “The biggest barrier is definitely [mother’s] inability to have insight into how her mental health impacts [K.W.], or probably just overall insight into her own mental health needs.”

K.W.’s therapist testified, stating that she began working with K.W. in September 2021 and diagnosed her with PTSD. The therapist described the significant improvements

that she has seen in K.W. since she began working with her, including K.W.'s hygiene, physical appearance, eye contact, school attendance, and mood. The therapist also commented that K.W. was previously unable to start processing her grief over her father's death because she was in trauma-induced survival mode, but that K.W. has now been able to start grieving.

Finally, the GAL testified that she was disappointed that K.W. and mother were unable to complete family therapy, but that she still supported termination of mother's parental rights with the "hopes that [K.W.] remain in family care and adoption with family and that at some point she reunify her relationship with her mother."

The district court found the county's witnesses to be credible and granted the TPR petition, concluding that the county had proved each of the three alleged statutory grounds for termination by clear and convincing evidence and that termination was in K.W.'s best interests.

DECISION

"[P]arental rights may be terminated only for grave and weighty reasons." *In re Welfare of Child of W.L.P.*, 678 N.W.2d 703, 709 (Minn. App. 2004). Termination generally requires clear and convincing evidence that (1) there is a statutory ground for termination, (2) the county has made reasonable efforts to reunite the family, and (3) termination is in the child's best interests. *In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). On appeal, mother challenges two of the three elements—that the statutory grounds were proven by the county and that termination is in the child's best interests. This court reviews these determinations for abuse of discretion. *In re Welfare of*

Child of J.H., 968 N.W.2d 593, 600 (Minn. App. 2021), *rev. denied* (Minn. Dec. 6, 2021).

“A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted). We review underlying findings of fact for clear error. *J.H.*, 968 N.W.2d at 600.

I. The county established a statutory ground for termination of mother’s parental rights by clear and convincing evidence.

The district court determined that the county proved all three of the statutory grounds for termination asserted in the county’s petition: (1) that mother refused or neglected to comply with parental duties, (2) that reasonable efforts failed to correct the conditions leading to out-of-home placement, and (3) that K.W. was neglected and in foster care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (5), (8). A decision to terminate parental rights may be affirmed based on only one statutory ground. *S.E.P.*, 744 N.W.2d at 385.

We begin our analysis by reviewing the district court’s determination that mother refused or neglected to comply with parental duties as set out in Minn. Stat. § 260C.301, subd. 1(b)(2). Under that statutory ground, a district court may terminate parental rights if it finds that a parent has “substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship.” Minn. Stat. § 260C.301, subd. 1(b)(2). Parental duties include “providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child’s physical, mental, or emotional health and development, if the parent is physically and financially able.” *Id.* The district court must also determine that, at the time of

termination, the parent is not presently able and willing to assume her responsibilities and that the condition will continue for the reasonably foreseeable future. *See In re Welfare of J.K.*, 374 N.W.2d 463, 466-67 (Minn. App. 1985), *rev. denied* (Minn. Nov. 25, 1985).

Mother contends that there was insufficient evidence to support the district court's determination that this statutory ground was proven by the county. We disagree. While the district court did not explicitly link its factual findings to its determination that this statutory ground was proven, the district court made sufficient findings, which are supported by the record, to demonstrate that mother failed to comply with parental duties. *Cf. In re Welfare of P.R.L.*, 622 N.W.2d 538, 544-45 (Minn. 2001) (ruling that district court's findings showed a clear and convincing evidentiary basis for termination despite not addressing all factors related to the statutory ground on which it terminated parental rights).

The district court found that mother "is unable to emotionally support [K.W.]," lacks insight into her mental health, and "is unable to understand how harmful her behaviors are to [K.W.]." The district court also found that K.W. remains fearful of mother and does not feel safe in mother's care. These findings are consistent with the testimony at trial. The ongoing social worker emphasized that, while mother has generally met K.W.'s physical needs, mother has been unable to meet K.W.'s emotional needs. The ongoing social worker also described times when mother became so angry that the social worker was fearful. The social worker said that, based on her own reaction to mother's anger, she "could understand why it was so scary for [K.W.]." And K.W.'s therapist described the improvement in K.W.'s emotional health and physical presentation after K.W. was no

longer in mother's care. Further, the record contains evidence of multiple instances when mother physically harmed K.W. or abruptly took her on long trips based on mother's symptoms of mental illness.

The record also shows that mother's inability to provide for K.W.'s needs will persist for the reasonably foreseeable future. K.W. testified that she continues to refuse contact with mother because, when she has had contact, mother has failed to take responsibility for the circumstances leading to K.W.'s placement out of the home and blames others. Additionally, the ongoing social worker indicated that, while mother did engage in some mental-health treatment, she abruptly cut off contact with several providers, in particular the Zumbro therapist and the psychiatrist who recommended antipsychotic medication. The social worker testified that mother's persistent symptoms of mental illness prevented progress in part because mother was unable to communicate with the social worker and other providers—mother would scream about kidnapping and brainwashing during case-planning conferences to the extent that the social worker was unable to share information about K.W.

The record thus supports that mother failed to meaningfully address her mental health and that this rendered mother unable to provide for K.W.'s emotional needs and safety. We thus affirm the district court's conclusion that mother neglected to comply with her parental duties. Having concluded that the district court did not abuse its discretion in determining that the county proved this statutory ground for termination of parental rights by clear and convincing evidence, we need not address the other two grounds found by the district court. *S.E.P.*, 744 N.W.2d at 385.

II. The district court's best-interests findings are insufficient and require remand.

We next turn to mother's argument that the district court's best-interests determination is not supported by sufficient findings. In a TPR proceeding, the best interests of the child is the paramount consideration. *In re Welfare of Child. of J.R.B.*, 805 N.W.2d 895, 902 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). "[T]he [district] court must balance three factors: (1) the child's interest in preserving the parent-child relationship; (2) the parent's interest in preserving the parent-child relationship; and (3) any competing interest of the child." *W.L.P.*, 678 N.W.2d at 711 (quotation omitted); *see* Minn. R. Juv. Prot. P. 58.04(c)(2)(ii) (requiring the district court to analyze these factors). Competing interests of the child "include a stable environment, health considerations, and the child's preferences." *In re Welfare of Child. of M.A.H.*, 839 N.W.2d 730, 744 (Minn. App. 2013).

Here, the district court's express findings on best interests consist of the following: (1) "[K.W.] identified [grandmother] as her safe person. [Grandmother] is a safe and healthy person for [K.W.]. It is in [K.W.'s] best interest[s] to remain in [grandmother's] care"; and (2) "Based upon all of the foregoing, the Court finds that it is in [K.W.'s] best interests that [mother's] parental rights be terminated and that [K.W.] be placed for adoption." The district court made no findings concerning mother's interest in preserving the parent-child relationship and did not directly address the question of K.W.'s competing interests.

A district court's best-interests determination "is generally not susceptible to an appellate court's global review of a record," and it is inappropriate for appellate courts to "comb[] through the record to determine best interests . . . because it involves credibility determinations." *In re Tanghe*, 672 N.W.2d 623, 625 (Minn. App. 2003). The district court's findings on best interests are thus imperative "to facilitate effective appellate review, to provide insight into which facts or opinions were most persuasive of the ultimate decision, [and] to demonstrate the [district] court's comprehensive consideration of the statutory criteria." *Id.* at 626 (quotation omitted); *see also In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 545 (Minn. App. 2009) ("In a TPR proceeding, the district court must consider the child's best interests and explain why termination is in the best interests of the child."). Moreover, the Minnesota Rules of Juvenile Protection require the district court to make specific best-interests findings in a termination proceeding which reflect the district court's analysis of the three factors discussed above: the child's interest in preserving the parent-child relationship, the parent's interest in the preservation of that relationship, as well as the competing interests of the child. Minn. R. Juv. Prot. P. 58.04(c)(2)(ii).

The summary nature of the district court's best-interests determination fails to satisfy the district court's obligations. We therefore remand to the district court to make additional best-interests findings setting out mother's interest in preserving the parent-child relationship and any competing interest of K.W. On remand, the district court may, in its discretion, choose to reopen the record regarding best interests and the district court may reconsider its best-interests determination in light of its additional findings. Nothing in

this opinion, however, should be construed as this court's position on whether the district court should allow additional evidence or alter its determination.

Affirmed in part and remanded.